

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**
Washington, DC 20554

In the Matter of:)	
)	
Telecommunications Carriers Eligible to Receive)	WC Docket No. 09-197
Universal Service Support)	
)	
Petition of Mid-Hudson Data Corp. for Eligible)	
Telecommunications Carrier Status in the State of)	
New York)	
)	

**PETITION FOR ELIGIBLE
TELECOMMUNICATIONS CARRIER DESIGNATION**

Dated: October 22, 2018

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Attorneys for Mid-Hudson Data Corp.

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EXHIBIT 1 – List of Census Blocks in which Mid-Hudson Seeks ETC Designation

EXHIBIT 2 – Affidavit of James M. Reynolds

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**PETITION OF MID-HUDSON DATA CORP. FOR ELIGIBLE
TELECOMMUNICATIONS CARRIER DESIGNATION
IN THE STATE OF NEW YORK**

Pursuant to Section 214(e)(6) of the Communications Act, as amended,¹ and Commission rules,² Mid-Hudson Data Corp. (Mid-Hudson) requests designation as an Eligible Telecommunications Carrier (ETC) in the State of New York in all areas in which it has been awarded Connect America Fund (CAF) Phase II support via the New NY Broadband Program.³

I. INTRODUCTION AND SUMMARY

On January 31, 2018, the New York Broadband Program Office announced that Mid-Hudson was awarded support to serve 459 locations in New York through a combination of private, state, and CAF support. Mid-Hudson's \$10.9 million project will be supported with a combination of equity funding, New York State grant funding and \$640,296.00 of federal CAF support. Under the terms of the FCC Order allocating unclaimed New York State CAF funding, Mid-Hudson's receipt of federal CAF support requires the company to obtain certification as an

¹ 47 U.S.C. § 214(e)(6).

² See, e.g., 47 C.F.R. § 54.101(a), § 54.202

³ See *Connect America Fund, et al.*, Order, 32 FCC Rcd 968 (2017) ("*New York CAF Order*").

ETC and to meet the requirements imposed on such carriers, including the offering of certain services as a common carrier, such as telephone and Lifeline services. At this time, Mid-Hudson is seeking to limit its designation as an ETC provider to those areas that it has been awarded CAF funding but may seek designation in additional areas should it be awarded future CAF funding or seek to serve Lifeline subscribers in areas not incorporated in this Petition.

Grant of this Petition is in the public interest because it will allow Mid-Hudson to bring high quality competitive services to subscribers, including those eligible for Lifeline services, in the communities in which it seeks ETC designation.

All inquiries concerning this application should be made to:

Arnie Cavallaro
Operations Manager
Mid-Hudson Data Corp.
200 Jefferson Heights
Catskill, New York 12414

Because it is required to receive ETC-designation within 180 days of receipt of a CAF award,⁴ Mid-Hudson respectfully requests that it be granted ETC-designation without undue delay. Mid-Hudson Data Corp. is a New York domestic business corporation in Columbia County. The address of the company is 200 Jefferson Heights, Catskill, New York 12414. Mid-Hudson Data is a wholly owned subsidiary of Mid-Hudson Cablevision Holdings, Inc. Together with its affiliates, including Mid-Hudson Cablevision, Inc. and Mid-Hudson Broadband, LLC, the company provides broadband, video, and VOIP phone services to customers in Massachusetts and the State of New York.

On August 28, 2017, Mid-Hudson applied to the New York Broadband Program Office for funding to provide broadband services in exchanges served by Verizon. In its application for

⁴ 47 C.F.R. § 54.315(b)(5).

funding, the company committed to meeting certain deployment milestones and, as a condition for receiving CAF funding in the Verizon exchanges, is also required to provide telecommunications services and obtain ETC designation within 180 days of its award.⁵

As discussed in detail below, the Commission has the authority to grant Mid-Hudson ETC designation pursuant to Section 214(e)(6) and the company meets all the statutory and regulatory requirements for such designation. Designation of Mid-Hudson as an ETC to receive CAF support via the New NY Broadband Program will service the public interest by allowing Mid-Hudson to receive support to serve the areas that it is obligated to serve pursuant to its New York award, thereby expanding the availability of advanced broadband and communications services to areas currently identified as underserved. A list of census blocks for which the company is seeking ETC designation is provided in **Exhibit 1** of this Application.

II. COMMISSION AUTHORITY FOR DESIGNATION AS AN ETC

Pursuant to Section 214(e)(6), the Commission may designate an ETC where the applicant “is not subject to the jurisdiction of a State commission.”⁶ Pursuant to letter dated October 11, 2018, the New York State Public Service Commission affirmed that it lacks jurisdiction to issue ETC designation to Mid-Hudson. That letter is included as **Attachment A** of this petition. Accordingly, Mid-Hudson is submitting its request to the Commission and Mid-Hudson requests that the Commission approve this petition without delay.

III. MID-HUDSON QUALIFIES FOR DESIGNATION AS AN ETC

As described herein, Mid-Hudson meets the requirements for designation as an ETC as established under the statute and FCC rules.

⁵ *New York CAF Order*, paragraph 59.

⁶ *See id.* § 214(e)(6).

1. Mid-Hudson Data Will Provide Service as a Common Carrier.

Mid-Hudson, with its affiliates, will provide each of the services supported by the Federal High Cost Universal Service Program, as set forth in Section 214(e) of the Act and Section 54.101(a) of the Federal Communications Commission's rules. In order to receive certification as an ETC, Mid-Hudson must be a common carrier and must offer and advertise the supported services in the designated service areas. Mid-Hudson, with its affiliates, currently provides broadband Internet access service and interconnected voice over IP ("VoIP") service to its customers. Mid-Hudson will advertise and make available a "universal service" offering that includes all of the supported services for consumers in the designated service areas in New York. Accordingly, Mid-Hudson certifies that it is a common carrier under 47 U.S.C. §§ 214(e)(1) and 214(e)(6) for purposes of ETC designation.

2. Mid-Hudson Will Offer Services Supported by the Federal Universal Service Support Mechanisms.

Pursuant to §54.101(a) and (b), Mid-Hudson, with its affiliates, will provide voice services that meet the following requirements:

- a. Voice-Grade Access to the Public Switched Network – Mid-Hudson will provide voice-grade access, or its functional equivalent, to the public switched network. Mid-Hudson will have the capability to originate and terminate local and long-distance telephone service for all of its subscribers.
- b. Local Usage – Mid-Hudson will offer unlimited local calling to all of its subscribers.
- c. Access to Emergency Service – Mid-Hudson will offer access to emergency service throughout its service area by dialing 911. Enhanced 911 (E911), which includes the capability of providing both automatic numbering information (ANI) and automatic location information (ALI), is required if a public emergency service provider makes arrangements for the delivery of such information. Therefore, Mid-Hudson meets the requirement to provide access to emergency service.

Pursuant to §54.101(a)(2), Mid-Hudson, with its affiliates, will provide broadband services with the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service. Company broadband speeds will meet or exceed FCC required speed and usage allowances for fixed broadband offerings.

Pursuant to §54.101(d), Mid-Hudson, with its affiliates, will offer Lifeline service to Qualifying Low-income Consumers as required by the Commission's rules at all locations where it has been awarded support including toll blocking to meet the FCC's requirement.

3. Mid-Hudson Will Provide Services Using Its Own Facilities.

Pursuant to 54.201(d)(1) Mid-Hudson states that it will offer the services that are supported by federal universal service support mechanisms using a combination of its own facilities and resale of another carrier's services as needed. Mid-Hudson, with its affiliates, will have the ability and willingness to provide services throughout its designated service area using its own facilities and components leased from other carriers. Mid-Hudson will use its own facilities for "last mile" broadband services, including "middle mile" networks and equipment necessary to provide "last mile" service. Mid-Hudson will lease facilities provided by other wire-line carriers to connect with the public switched telephone network for exchange of local and toll traffic. Specifically, Mid-Hudson will use network facilities leased from other providers, including the incumbent provider(s) in the service areas in which it seeks ETC designation, for traffic exchange, toll and international calling, and network diversity.

4. Mid-Hudson Will Provide Service Throughout its Designated Service Area.

Mid-Hudson commits to provide the supported services throughout its designated service area consistent with applicable requirements. Mid-Hudson's requested designation ETC service area is the area where it was awarded CAF support through the New NY Broadband Program.

5. Mid-Hudson Will Advertise the Availability of Its ETC Required Service Offerings and Charges Using Media of General Distribution.

Pursuant to §54.201(d)(2) Mid-Hudson will advertise the availability of its ETC required service offerings and the associated charges using media of general distribution. The company will use these media, as necessary, to insure that consumers within its designated service area are fully informed of its services. As an affiliate of local providers of services in the very communities it will serve, Mid-Hudson is financially vested in its market and is uniquely capable of meeting the needs of that market.

6. Mid-Hudson Meets the Additional Requirements for Designation as an ETC.

Compliance with Applicable Service Requirements. Pursuant to §54.202(a)(1)(i) an affidavit supporting that Mid-Hudson will comply with the service requirements applicable to the support that it receives is provided in **Exhibit 2** of this Application. Mid-Hudson anticipates that it will receive \$640,296.00 from the CAF and \$3,649, 999 from the New York Broadband Program Office to support its designated service areas. This petition is made to give the company access to a full range of options for its subscribers by allowing the company to access federal funds for the stated intent.

Five-Year Plan. Pursuant to §54.202(a)(1)(ii) a five-year plan detailing its intended operating areas including population estimates was provided in its application for funding from the New York Broadband Program Office. Mid-Hudson certifies that it will provide service to the locations for which it has been awarded support consistent with the deployment obligations

associated with such support. Should the Commission request additional information of this plan be provided, Mid-Hudson will do so upon request.

Ability to Remain Functional in an Emergency Situation. Pursuant to §54.202(a)(2) Mid-Hudson states that it is capable of remaining functional in an emergency. Mid-Hudson shares its ownership structure with Mid-Hudson Cablevision, Inc., an incumbent local service provider in the LATA in which it seeks designation. It utilizes the same disaster recovery plan for its competitive network as it does for its incumbent provider. Its equipment operates on a redundant basis and its network is, and will be, deployed on as diverse a route as financially practical. Mid-Hudson states that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged ringed facilities, and is capable of managing traffic spikes resulting from emergency situations. To the extent that its services require commercial power at the customer premises, its end user equipment is deployed to support at a minimum, an 8-hour battery backup with options available to extend battery back-up times.

Consumer Protection and Service Quality Standards. Pursuant to §54.202(a)(3) Mid-Hudson will satisfy consumer protection and service quality standards. Mid-Hudson anticipates that its service quality and variety of offerings will be its primary sales advantage in its market. Accordingly, the company intends to meet or exceed service quality standards. Mid-Hudson will adhere to all applicable state and federal laws regarding, but not limited to, consumer protection. Mid-Hudson will share the same employees and procedures with its affiliate companies, Mid-Hudson Cablevision, Inc. and Mid-Hudson Broadband, LLC, and accordingly brings a level of experience that allows it to meet or exceed consumer standards.

IV. ETC DESIGNATION WILL ADVANCE THE PUBLIC INTEREST

Mid-Hudson is seeking ETC designations in those areas which have been identified as lacking in suitable broadband options by the state of New York. By obtaining ETC designation,

Mid-Hudson will be eligible to receive both the New York and federal funds that it needs to successfully serve its target areas. Indeed, the receipt of federal funding is a critical requirement of its business model in its target areas.

Mid-Hudson seeks ETC designation in the exchanges served by Verizon and is not seeking designation in any service areas operated by rural Incumbent Local Exchange Carriers (ILECs). In areas served by non-rural ILECs a finding of advancing the public interest is not required.⁷ However, designation of Mid-Hudson as an ETC would promote competition and facilitate the provision of advanced communications services and the use of innovative technologies to residents of these New York exchanges. Therefore, designation of Mid-Hudson as an ETC will serve the public interest.

V. MID-HUDSON CERTIFICATION OF THE DISPOSITION OF FEDERAL UNIVERSAL SERVICE FUNDING

Mid-Hudson certifies that it will use federal universal support “only for the provision, maintenance and upgrading of facilities and service for which the support is necessary” consistent with Section 254(e) of the Telecommunications Act of 1996. The Affidavit (attached hereto as **Exhibit 2** from James M, Reynolds certifies such and fully describes the telecommunications services Mid-Hudson will offer.

VI. ANTI-DRUG ABUSE CERTIFICATION

Mid-Hudson certifies that no party to this Petition is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, and Sections 1.2001-1.2003 of the Federal Communications Commission’s rules, 47 C.F.R. § 1.2001-1.2003. See **Exhibit 2**.

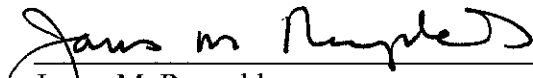
⁷ 47 USC §54.201(c).

VII. CONCLUSION

WHEREFORE, for the reasons set forth above, Mid-Hudson respectfully requests that the Commission issue an order as soon as is practicable designating Mid-Hudson as an Eligible Telecommunications Carrier throughout the service areas identified in Exhibit 1 of this Application.

Dated: October 22, 2018

Respectfully submitted,


James M. Reynolds
President and Chief Executive Officer
MID-HUDSON DATA CORP.

ATTACHMENT A

**Affirmative Statement from the New York State PSC Deferring
Jurisdiction Over Mid-Hudson's ETC Petition to the Federal Communications Commission**



**Department of
Public Service**

Public Service Commission

John B. Rhodes

Chair and
Chief Executive Officer

Gregg C. Sayre

Diane X. Burman

James S. Alesi

Commissioners

Thomas Congdon

Deputy Chair and

Executive Deputy

John J. Sipos

Acting General Counsel

Kathleen H. Burgess

Secretary

Three Empire State Plaza, Albany, NY 12223-1350
www.dps.ny.gov

October 11, 2018

Stephen Souky
Chief Financial Officer
Mid-Hudson Cablevision
200 Jefferson Heights
Catskill, NY 12414

Re: Request for Letter Clarifying Jurisdiction over Broadband CETC
Petitions/Mid-Hudson Data Corp.

Dear Mr. Souky:

As you requested in your email dated October 10, 2018, enclosed is a letter providing an affirmative statement, required by the FCC, that the New York State Public Service Commission does not exercise jurisdiction over broadband providers seeking Competitive Eligible Telecommunications Carrier designation.

Sincerely,

A handwritten signature in black ink that reads "Debra LaBelle". The signature is fluid and cursive, with the first name "Debra" and last name "LaBelle" clearly distinguishable.

Debra LaBelle

Director

Office of Telecommunications

cc: Hon. Kathleen Burgess, Secretary
Ruvain Kudan, Office of Telecommunications
Graham Jesmer, Assistant Counsel



**Department of
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Commissioners

Thomas Congdon
Deputy Chair and
Executive Deputy

John J. Sipos
Acting General Counsel

Kathleen H. Burgess
Secretary

Three Empire State Plaza, Albany, NY 12223-1350
www.dps.ny.gov

October 11, 2018

TO WHOM IT MAY CONCERN:

Re: Mid-Hudson Data Corp. Broadband Jurisdiction

We have received a request from Mid-Hudson Data Corp., a provider of broadband services, requesting a statement that the New York State Public Service Commission does not exercise jurisdiction over broadband services for the purpose of making determinations regarding Competitive Eligible Telecommunications Carrier (CETC) designations under section 214(e)(6) of 47 U.S.C. At this time, the New York State Public Service Commission does not certify broadband providers.

Consequently, based on the representation by Mid-Hudson Data Corp. that it provides only broadband services, it is not at this time subject to New York State Public Service Commission jurisdiction for the purpose of making a CETC designation.

Sincerely,

Debra LaBelle
Director
Office of Telecommunications

cc: Hon. Kathleen Burgess, Secretary
Ruvain Kudan, Office of Telecommunications
Graham Jesmer, Assistant Counsel

EXHIBIT 1

COMPANY NAME	CENUS BLOCK ID
Mid-Hudson Data Corp.	360390802013004
Mid-Hudson Data Corp.	360390802013005
Mid-Hudson Data Corp.	360390806002015
Mid-Hudson Data Corp.	360390802013023
Mid-Hudson Data Corp.	360390802013015
Mid-Hudson Data Corp.	360390806002029
Mid-Hudson Data Corp.	360390802011027
Mid-Hudson Data Corp.	360390802011031
Mid-Hudson Data Corp.	360390805011006
Mid-Hudson Data Corp.	360390805011015
Mid-Hudson Data Corp.	360390802013060
Mid-Hudson Data Corp.	360390802013067
Mid-Hudson Data Corp.	360390802013066
Mid-Hudson Data Corp.	360390802011041
Mid-Hudson Data Corp.	360390802013068
Mid-Hudson Data Corp.	360390805012020
Mid-Hudson Data Corp.	360390805011033
Mid-Hudson Data Corp.	360390805011034
Mid-Hudson Data Corp.	360390802013051
Mid-Hudson Data Corp.	360390802013044
Mid-Hudson Data Corp.	360390806002081
Mid-Hudson Data Corp.	360390806002077
Mid-Hudson Data Corp.	360390805012054
Mid-Hudson Data Corp.	360390805012053
Mid-Hudson Data Corp.	360390805012012
Mid-Hudson Data Corp.	360390809001006
Mid-Hudson Data Corp.	360390805012066
Mid-Hudson Data Corp.	360390805012065
Mid-Hudson Data Corp.	360390805012004
Mid-Hudson Data Corp.	360390805012006
Mid-Hudson Data Corp.	360390805012084
Mid-Hudson Data Corp.	360390805012061
Mid-Hudson Data Corp.	360390805024031
Mid-Hudson Data Corp.	360390811011062
Mid-Hudson Data Corp.	360390811013000
Mid-Hudson Data Corp.	360390811023028
Mid-Hudson Data Corp.	360390811023063
Mid-Hudson Data Corp.	360390811023068
Mid-Hudson Data Corp.	360390810004033
Mid-Hudson Data Corp.	360390811023120
Mid-Hudson Data Corp.	360390811023119
Mid-Hudson Data Corp.	360390811013078
Mid-Hudson Data Corp.	360390811013082
Mid-Hudson Data Corp.	360390811013083
Mid-Hudson Data Corp.	360390811011061
Mid-Hudson Data Corp.	360390811013002

EXHIBIT 1

COMPANY NAME	CENUS BLOCK ID
Mid-Hudson Data Corp.	360390811013004
Mid-Hudson Data Corp.	360390811013034
Mid-Hudson Data Corp.	360390811013031
Mid-Hudson Data Corp.	360390811011075
Mid-Hudson Data Corp.	360390811013007
Mid-Hudson Data Corp.	360390811013005
Mid-Hudson Data Corp.	360390811013022
Mid-Hudson Data Corp.	360390811013023
Mid-Hudson Data Corp.	360390811011082
Mid-Hudson Data Corp.	360390811011080
Mid-Hudson Data Corp.	360210006002042
Mid-Hudson Data Corp.	360210007002031
Mid-Hudson Data Corp.	360210007001054
Mid-Hudson Data Corp.	360210007002027
Mid-Hudson Data Corp.	360210011001011
Mid-Hudson Data Corp.	360210010004074
Mid-Hudson Data Corp.	360210010006034
Mid-Hudson Data Corp.	360210007002035
Mid-Hudson Data Corp.	360210007002070
Mid-Hudson Data Corp.	360210010003002
Mid-Hudson Data Corp.	360210010006003
Mid-Hudson Data Corp.	360210007002041
Mid-Hudson Data Corp.	360210007003065
Mid-Hudson Data Corp.	360210007002048
Mid-Hudson Data Corp.	360010148031030
Mid-Hudson Data Corp.	360010148031048
Mid-Hudson Data Corp.	360010148031027

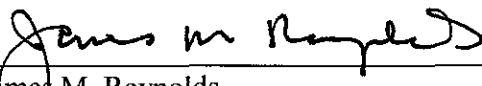
EXHIBIT 2
Affidavit of James M. Reynolds

Declaration of James M. Reynolds

Pursuant to 47 C.F.R. § 1.16, I, James M. Reynolds, do declare under penalty of perjury the following is true and correct.

1. I am James M. Reynolds, President and Chief Executive Officer, of Mid-Hudson Data Corp. (Mid-Hudson). The foregoing "Petition of Mid-Hudson Data Corp. for Eligible Telecommunications Carrier Designation in the State of New York" (Petition) has been prepared under my direction, supervision and control. The factual statements and representations contained therein are true and accurate to the best of my knowledge and belief.
2. Mid-Hudson intends to obtain low income universal service support funding upon receipt of ETC designation and will use federal universal support only for the provision, maintenance and upgrading of facilities and services for which the support is necessary consistent with Section 254(e) of the Telecommunications Act of 1996.
3. Mid-Hudson will be capable of providing all of the service offerings required by and set forth in Section 214 (e) of the Communications Act of 1934, as amended, for "eligible telecommunications carriers."
4. Anti-Drug Abuse Certification: To the best of my knowledge, the applicant referred to in the foregoing Petition, including all officers, directors, or persons holding or more of the outstanding stock or shares (voting and/or nonvoting) of the applicant as specified by Section 1.2002 (b) of the Federal Communications Commission rules, are not subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

SHEILA WILSON
Notary Public, State Of New York
No. 01WI6067076
Qualified In Greene County
Commission Expires, Dec. 3, 2021


James M. Reynolds
President and Chief Executive Officer
Mid-Hudson Data Corp.

COUNTY OF COLUMBIA)
STATE OF NEW YORK)

Subscribed and sworn to before me by James M. Reynolds on this 22 day of October 2018.

NOTARY PUBLIC

Name Sheila Wilson

Signature Sheila Wilson

Commission Expires Dec. 3 2021

